

CHAPTER 5
PUBLIC RECORDS AND
FAIR INFORMATION PRACTICES

The Iowa landscape architectural examining board hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first Volume of the Iowa Administrative Code.

193D—5.1(17A,22) Definitions. As used in this chapter:

“Agency.” In lieu of the words “(agency issuing these rules)”, insert “Iowa landscape architectural examining board”.

193D—5.3(22) Requests for access to records.

5.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “Iowa landscape architectural examining board”. In lieu of the words “(insert agency name and address)”, insert “the Iowa Landscape Architectural Examining Board, 1918 S.E. Hulsizer, Ankeny, Iowa 50021”.

5.3(2) Office hours. In lieu of the words “(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “8 a.m. to 4:30 p.m. Monday through Friday”.

5.3(7) Supervisory fee. In lieu of the words “(specify time period)”, insert “one-half hour”.

193D—5.9(22) Disclosures without the consent of the subject.

5.9(1) Open records are routinely disclosed without the consent of the subject.

5.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

- a. For a routine use as defined in rule 5.10(22,544B) or in any notice for a particular record system.
- b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided, that, the record is transferred in a form that does not identify the subject.
- c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.
- d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.
- e. To the legislative fiscal bureau under Iowa Code section 2.52.
- f. Disclosures in the course of employee disciplinary proceedings.
- g. In response to a court order or subpoena.

5.9(3) Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit of the department of human services through manual or automated means for the sole purpose of identifying registrants or applicants subject to enforcement under Iowa Code Supplement chapter 252J or 598.

193D—5.10(22,544B) Routine use. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22. To the extent allowed by law, the following uses are considered routine uses of all agency records:

5.10(1) Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

5.10(2) Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

5.10(3) Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

5.10(4) Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

5.10(5) Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

5.10(6) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

5.10(7) Disclosure to the public and news media of pleadings, motions, orders, final decisions, and informal settlement filed in licensee disciplinary proceedings.

5.10(8) Transmittal to the district court of the record in a disciplinary hearing, pursuant to Iowa Code section 17A.19(6), regardless of whether the hearing was open or closed.

5.10(9) The following board records are routinely available to members of the public:

- a. Minutes of all open board meetings.
- b. The name, home address, firm address, telephone number and certificate number of all registrants.
- c. Data processing records similar to the written records identifying the name, home address, firm address, and certificate number of all registrants.

193D—5.11(22) Consensual disclosure of confidential records.

5.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 5.7(17A,22).

5.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

193D—5.12(22) Release to subject.

5.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 5.6(17A,22). However, the agency need not release the following records to the subject:

- a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.
- b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.
- c. Peace officers' investigative reports may be withheld from the subject, except as required pursuant to Iowa Code section 22.7(5).
- d. As otherwise authorized by law.
- e. All information in licensee complaint and investigation files maintained by the board for purposes of licensee discipline are required to be withheld from the subject prior to the filing of formal charges and the notice of hearing in a licensee disciplinary proceeding.

5.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

193D—5.13(17A,21,22,544B,272C) Availability of records.

5.13(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

5.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Information for the uniform national examination results except each candidate may receive their own examination grades and examination problems pursuant to Iowa Code section 544B.8.

b. All information in complaint and investigation files maintained by the board for purposes of licensee discipline is confidential in accordance with Iowa Code section 272C.6(4), except that the information may be released to the licensee once a licensee disciplinary proceeding has been initiated by the filing of formal charges and a notice of hearing.

c. The record of a disciplinary hearing which is closed to the public pursuant to Iowa Code section 272C.6(1) is confidential under Iowa Code section 21.5(4). However, in the event a record is transmitted to the district court pursuant to Iowa Code section 17A.19(6) for purposes of judicial review, the record shall not be considered confidential unless the district court so orders.

d. Records which are exempt from disclosure under Iowa Code section 22.7.

e. Minutes of closed meetings of a government body pursuant to Iowa Code section 21.5(4).

f. Identifying details in final orders, decisions, and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)“d.”

g. Those portions of agency staff manuals, instructions, or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency pursuant to Iowa Code sections 17A.2 and 17A.3.

h. Records exempted from public inspection under any other provision of law.

i. Information in nonlicensee investigation files maintained by the board which are otherwise exempt from disclosure under Iowa Code section 22.7 or other provision of law.

j. Records which constitute attorney work products, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10, and 622.11.

k. Any other records made confidential by law.

193D—5.14(22,544B) Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 5.4(17A,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 5.4(3).

193D—5.15(22,544B) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 5.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

5.15(1) Information in complaint and investigation files maintained by the board for purposes of licensee discipline. This information is required to be kept confidential pursuant to Iowa Code section 272C.6(4). However, it may be released to the licensee once a disciplinary proceeding is commenced by the filing of formal charges and the notice of hearing.

5.15(2) Information on nonlicensee investigation files maintained by the board. This information is a public record except to the extent that certain information may be exempt from disclosure under Iowa Code section 22.7 or other provision of law.

5.15(3) The following information regarding licensee disciplinary proceedings:

- a. Formal charges and notices of hearing.
- b. Complete records of open disciplinary hearings. If a hearing is closed pursuant to Iowa Code section 272C.6(1), the record is confidential under Iowa Code section 21.5(4).
- c. Final written decisions imposing sanctions, including informal stipulations and settlements.

5.15(4) Application records including address, education, experience, references, examination grades, and correspondence pursuant to Iowa Code section 544B.9. These records are maintained in personal files.

5.15(5) Documented evidence of examples of completed projects by candidates pursuant to Iowa Code section 544B.9. These records are maintained in personal files and can be destroyed six months after the board approves the registration pursuant to subrule 2.2(2).

5.15(6) Registration renewals of landscape architects pursuant to Iowa Code section 544B.13. These records are maintained in files.

5.15(7) Examination records of each candidate qualifying or nonqualifying for certificate of registration pursuant to Iowa Code section 544B.9. These records are maintained in personal files.

5.15(8) Affidavits of continuing education completed by registrants pursuant to Iowa Code section 272C.2. These records are maintained in files.

5.15(9) Data processing roster information for registrants including home address, firm address, and certificate number pursuant to Iowa Code section 544B.11. These records are maintained on a personal computer.

193D—5.16(22,544B) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 5.1(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in rule 5.13(17A,21,22,544B272C). In addition, the records may contain information about individuals. All records are stored both on paper and in automated data processing systems unless otherwise noted.

5.16(1) Rule-making records. Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is not stored in an automated data processing system.

5.16(2) Board records. Agendas, minutes, and materials presented to the landscape architectural examining board are available from the board office except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4). Board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored in an automatic data processing system.

5.16(3) Publications. News releases, annual reports, project reports, agency newsletters, etc., are available at the landscape architectural examining board office. Agency news releases, project reports, and newsletters may contain information about individuals, including agency staff or members of agency councils or committees. This information is not stored in an automated data processing system.

5.16(4) Licensing, registration and approval. Records which pertain to applicants for a license, registration, or certificate of approval from the agency are open to the public as noted herein. Records which identify particular persons served by the applicant, such as incident reports or complaint investigations, are not open to the public. These records may contain information about individuals.

5.16(5) Appeal decisions and advisory opinions. All final orders, decisions, and opinions are open to the public.

5.16(6) Policy manuals. The agency employees' manual, containing the policies and procedures for programs administered by the agency, is available in every office of the agency. Subscriptions to all or part of the employees' manual are available at the cost of production and handling. Requests for information should be addressed to Professional Licensing and Regulation Division, 1918 S.E. Hulsizer, Ankeny, Iowa 50021. Policy manuals do not contain information about individuals.

5.16(7) All other records that are not exempted from disclosure by law.

193D—5.17(261) Sharing information with the college student aid commission. Notwithstanding any statutory confidentiality provision, the board may share information with the college student aid commission for the sole purpose of identifying licensees or applicants subject to enforcement under Iowa Code sections 261.126 and 261.127.

These rules are intended to implement Iowa Code section 22.11 and Iowa Code chapter 252J.

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